

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 15, 2023

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Wintrow, and Ruchti

ABSENT/ EXCUSED: Senator Toews

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Guthrie** called the Senate State Affairs Committee (Committee) to order at 8:01 a.m.

RS 30640 **Relating to Prevention of Public Offenses - Amends Section 19-202, Idaho Code.** **Senator Lakey** presented this as an aspect of self-defense. He referenced Idaho Code § 19-202A and read about the right to defend yourself, your property, and others. He stated this legislation addressed something less than actual use of force. Over the past couple of years, senators worked with the National Rifle Association (NRA) to add to Section 19-202, which was resistance by a threatened party (above the self-defense section.) It explained action short of drawing a weapon and using that force for self-defense. **Senator Lakey** described the legislation as a defensive display or declaration; it was an option. It was subject to the same reasonable person standard as in the self-defense sections. He explained, when a person was faced with the use, or attempted use of unlawful physical force (emphasis on unlawful physical force), the person may respond in an effort to diffuse or curtail the threat by informing the aggressor of possession of a firearm or by exposing a holstered firearm. The language provided clarity and protection against the application of the Idaho assault statutes. He defined assault and aggravated assault.

Senator Wintrow asked, if she exposed a firearm to someone, would that be a problem? **Senator Lakey** explained her reaction needed to be in response to an unlawful threat or use of force. Just showing a firearm could be a problem. **Senator Wintrow** referred to a television show in which two men were in a conflict. Man A showed a gun and was shot by Man B. Could showing a gun be antagonistic? **Senator Lakey** responded the reaction could only be in response to an unlawful threat or use of force, not a provocation.

MOTION: **Senator Winder** moved to send **RS 30640** to print. **Senator Anthon** seconded the motion. **Senator Wintrow** shared she would vote to introduce **RS 30640** to print, but declared she still had many questions about the necessity, how would it increase safety, and what prompted this legislation. The motion carried by **voice vote**.

Proposing an Amendment to Section 23, Article III of the Constitution of the State of Idaho. **Senator Harris** referenced the Idaho State Constitution, Article III, Section 8, that allowed the legislature to call itself back into session. Prior to that only the governor had the authority to call the legislature back into session. He shared that Article III, Section 23 limited the days the governor could call a special session to 20 days. He asked Trent Clark to explain this more fully.

Trent Clark described this constitutional amendment as more of a conforming, technical, non-controversial fix. He read an excerpt from the original 1890 United States Constitution (Constitution) (Attachment 1). He emphasized the original Constitution was handwritten in cursive and commented on the difficulty it would have been to amend the document without rewriting entire sections. In Article III, Section 23, it was written "...when convened an extra session by the governor they shall each received \$5.00 per day. But no extra session shall continue for a longer period than 20 days." Mr. Clark noted the oddity of the phrase because, at the time, there was no way to convene an extra session except by the governor. The phrase was written in the compensation section, but the period of a session in every other place in the Constitution was in the section dealing with the ability to convene that session. Later, as compensation rules changed, the \$5.00 per day was removed, leaving one provision limited to convened by the governor not exceeding 20 days.

Senator Wintrow acknowledged this legislation did not change the compensation and did not take away the time limit. **Mr. Clark** agreed. **Senator Wintrow** presumed this had to go to the voters to amend the Constitution and make sure it stated it was not by the governor. **Mr. Clark** said if this was a piece of legislation, it would be called a non-controversial trailer bill. Unfortunately, this was a Constitutional amendment and the effect of eliminating the 20 days limit was never in the voter guide or disclosed to the voters. **Senator Wintrow** asked, what if the people voted this down. **Mr. Clark** stated it would open a way to convene the legislature that was unlimited.

MOTION:

Senator Bernt moved to send **RS 30655** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

H 179

Voting - Adds to existing law to prohibit the use of ranked choice voting in Idaho. **Senator Zuiderveld** provided The Truth About Ranked Choice Voting (RCV) (Attachment 2). She said RCV did not preserve a fair and transparent electoral process. To keep a constitutional republic and liberties, the election process had to be protected as provided by the founders of the country. She described RCV was a scheme and referenced the 2020 election in the State of Alaska. **Senator Zuiderveld** explained the RCV gave a false impression that a voter was in control of his vote. How votes were counted was important and she said RCV changed the presumption of one man/one vote and ushered in algorithms without a transparent means to audit the vote. If no candidate won the majority of the first preference vote, ballots were continually adjusted until finally a candidate secured 50 percent of the votes.

Senator Wintrow asked, why the need to prohibit and outlaw if a community wanted to use this as a voting method? **Senator Zuiderveld** reminded of the founding fathers' efforts to protect the election process. The RCV gave certain people two votes instead of one. **Senator Wintrow** stated that as culture evolved and potential problems arose in elections, she challenged if the primary system was actually working in Idaho. She questioned, why limit opportunities? She did not understand RCV the same way as described. She repeated her concern about prohibiting and not allowing a different way to address a problem. **Senator Zuiderveld** suggested there were blessings and curses in the matter, such as

two candidates working together to influence campaigning and the outcome. She believed transparency could be lost through the ranked choice process. **Senator Wintrow** contended that happened in the current system as well.

Senator Harris asked if under a ranked choice voting system, could multiple candidates from the same party be on the ballot? **Senator Zuiderveld** confirmed the possibility, adding there could be up to 75 candidates on a ballot. **Senator Harris** clarified if that meant the general election ballot. **Senator Zuiderveld** said she would explore that and have an answer before the floor session.

Senator Ruchti asked if RCV would apply to primary and general elections. **Senator Zuiderveld** answered, if the state chose. She said there were 18 states that adopted RCV. In some cases, it was either the state or the local election (Mayor, for instance.) She said in some states, RCV was the complete system.

Senator Wintrow struggled with what the preemption was about if people wanted to use RCV. She cited successes with ranked choice voting in Virginia. She remained curious about limiting the opportunity to get the best candidates in the jobs if there was a better system. **Senator Zuiderveld** stated the current system worked for a very long time and she could not imagine a better system.

TESTIMONY:

The following individuals submitted email comments about **H 179**: Steve Bender, Melissa Blevins, Stan Lockhart, Saul Anuzis, Eric Wilson, and Josh Daniels (Attachment 3).

Cindy Thorngren testified virtually, against **H 179**. She declared the country of Australia used RCV for over a hundred years without problems. She felt people for the bill argued that Idaho could not keep up with those down under, and that RCV would prove to be too complicated. **Ms. Thorngren** believed RCV was a protection and likened it to reallocating on the second round. She stated the legislature went through RCV every day: a motion was made, an amendment made, a vote taken on the amendment, and if the amendment failed, all members reallocated the vote for the original motion. She stated RCV elected moderates and she felt special interest groups wanted polar opposites because they were easier to manipulate. Why should legislators tell a community no if it wanted RCV.

Hollie Conde testified in person on behalf of Conservation Voters for Idaho. She declared there was misinformation about RCV. She stated it was not in use anywhere in Idaho and was limited to small, municipal elections, and party elections throughout the country. She considered RCV a tool in the toolbox that we did not yet use or understand. She suggested it could mitigate problems associated with the current system, such as hyper-partisanship, voter apathy, and negative campaigning. Having more than one option, possibly gave voters an option to pick their preferred candidate rather than the candidate they disliked the least. The binary system cut out the political center resulting in more division. **Ms. Conde** thought RCV tended to reward candidates who ran more issue-oriented campaigns. In her opinion, the ranked choice option tended to find the best candidates and provided more information about the electorates preferences for future race. She denied choice voting was a reform being imposed on voters by the federal government. It was adopted incrementally in small steps across the country by local government and by party. Regarding the complexity of the system, she said 85 percent of Alaska voters found it simple to use. In Utah, where it was tested in a pilot program for municipal elections, 88 percent of the voters found it simple. She concluded there was no value in banning an idea.

Senator Wintrow asked for more explanation about voter favorites as opposed to partisan politics. **Ms. Conde** responded, in RCV a candidate campaigned to a broader, issue-based goal rather than discrediting an opponent.

Senator Zuiderveld closed by saying the voting system did not guarantee to eliminate ugly politics. She said the system we use gave us the freedoms we enjoyed and it should be protected.

MOTION: **Senator Harris** moved to send **H 179** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

DISCUSSION: **Senator Wintrow** wanted it on the record that she opposed prohibiting and preempting an idea that could work. She urged focusing on issues, as opposed to the party of person. Most importantly, she did not want to remove a tool from the toolbox.

Senator Winder said this was not a constitutional amendment, it was a piece of code that any future legislature could change. He believed there were enough uncertainties about the process to warrant considering this bill. He did not want to see a patchwork of different types of voting going on around the state. For the time being, he felt this was a step in the right direction. Again, it was code and could be changed in the future.

Chairman Guthrie concurred that another process could be entertained later through a code change.

VOICE VOTE: The motion carried by **voice vote**. **Senators Wintrow** and **Ruchti** requested to be recorded as voting no.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Winder** moved to send the Gubernatorial Appointment of Jack Hetherington to the floor with the recommendation that he be confirmed by the Senate. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Gabriel Iacoboni of Lewiston, ID to the Bingo-Raffle Advisory Board** for a term commencing March 1, 2023 and expiring January 7, 2025. **Mr. Iacoboni** provided a brief history that included his education and work experience. He operated a nonprofit that worked with the Charitable Enforcement Division in terms of filing reports and financial compliance. His background in public administration and nonprofit management qualified him to serve the state while doing what interested him.

Chairman Guthrie informed the Committee would vote on Mr. Iacoboni's appointment at its meeting on March 17, 2023.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Shelly Enderud of Post Falls, ID to the State Building Authority** for a term commencing January 1, 2021 and to expire January 1, 2026. **Ms. Enderud** provided a brief history that included her education and work experience. She was on the State Building Authority since 2010. She was familiar with municipal bonds and the process to finance and do leases with entities. She enjoyed serving and looked forward to continuing her work for the state.

Chairman Guthrie informed the Committee would vote on Ms. Enderud's reappointment at its meeting on March 17, 2023.

MINUTES APPROVAL: **Senator Winder** moved to approve the minutes of March 3, 2023. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 8:47 a.m.

Senator Guthrie
Chair

Joyce Brewer
Secretary